

2009 DRAFTING REQUEST

Bill

Received: 12/02/2008

Received By: gmalaise

Wanted: As time permits

Identical to LRB:

For: Spencer Coggs (608) 266-2500

By/Representing: David De Felice

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - day care

Extra Copies:

Submit via email: YES

Requester's email: Sen.Coggs@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Day care van child safety alarms

Instructions:

Redraft 2005 SB 344

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 12/02/2008	wjackson 12/16/2008		_____			S&L Crime
/1			jfrantze 12/17/2008	_____	lparisi 12/17/2008	sbasford 03/23/2009 sbasford 03/23/2009	

FE Sent For:

at intro

re jacketed
/1 to get new labels

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/?	gmalaise	/1 WLj 12/12	<i>[Signature]</i> 12/17	<i>[Signature]</i> 12/17			

FE Sent For:

<END>

09861
LRB-3228/A
GMM: [initials]
WLJ

2005 SENATE BILL 344

LPS: Please PWF

LPS: Please check autorefs.

September 22, 2005 - Introduced by Senators COGGS, RISSER, CARPENTER, BLALE, ROESSLER and TAYLOR, cosponsored by Representatives YOUNG, AINSWORTH, ALBERS, BERCEAU, CULLEN, FIELDS, GRIGSBY, HAHN, OTT, SHERIDAN, SINICKI, TURNER, UNDERHEIM, A WILLIAMS and ZEPNICK. Referred to Committee on Natural Resources and Transportation.

Regen

1 AN ACT to amend 48.657 (1) (a), 48.657 (1) (b), 48.657 (2g), 48.715 (2) (c), 48.715
2 (2) (d), 48.715 (2) (f), 48.715 (3) (intro.), 48.715 (4) (a), 48.715 (4) (b) and 48.715
3 (4) (d); and to create 48.658 of the statutes; relating to: requiring certain
4 vehicles that are used to transport children to and from a child care provider
5 to have child safety alarms installed, granting rule-making authority,
6 extending the time limit for emergency rule procedures, providing an
7 exemption from emergency rule procedures, and providing a penalty.

Children and Families (DHS)

STET

Analysis by the Legislative Reference Bureau

Under current Department of Health and Family Services (DHFS) and Department of Workforce Development (DWD) administrative rules, a child may not be left unattended in a vehicle that is used to transport children to or from a day care center that is licensed by DHFS, a day care provider that is certified according to standards adopted by DWD, or a day care program that is established or contracted for by a school board (child care provider).

This bill requires a child care provider or contractor of a child care provider that is the owner or lessee of a vehicle that has a seating capacity of six or more passengers in addition to the driver and that is used to transport children to and from the child care provider (child care vehicle) to have an alarm system that prompts the driver of the child care vehicle to inspect the child care vehicle for children before exiting

owns or leases

INSERT ANALYSIS

SENATE BILL 344

the child care vehicle (child safety alarm) ~~and that is approved by DCF~~ installed in the child care vehicle before the ~~child care~~ vehicle is placed in service. ~~The bill~~ however, ~~grants to~~ a child care provider or contractor of a child care provider that ~~is~~ ~~the owner or lessee of~~ a child care vehicle that is in use before the effective date of the bill a grace period of three months after the effective date of the bill to install a child safety alarm as required by the bill. Under the bill, any person who knowingly transports a child, and any child care provider or contractor of a child care provider that ~~is the owner or lessee of~~ a child care vehicle, ~~who~~ knowingly permits a child to be transported, to or from a child care provider in a child care vehicle in which a child safety alarm has not been installed, is not properly maintained, or is not in good working order may be fined not more than \$1,000 or imprisoned for not more than one year in the county jail or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

No If
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Keep

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 48.657 (1) (a) of the statutes is amended to read:
2 48.657 (1) (a) Violations of statutes, rules promulgated by the department
3 under s. 48.658 (4) (a) or 48.67, or provisions of licensure under s. 48.70 (1) by the day
4 care center. In providing information under this paragraph, the department may not
5 disclose the identity of any employee of the day care center.

6 SECTION 2. 48.657 (1) (b) of the statutes is amended to read:
7 48.657 (1) (b) A telephone number at the department that a person may call
8 to complain of any alleged violation of a statute, rule promulgated by the department
9 under s. 48.658 (4) (a) or 48.67, or provision of licensure under s. 48.70 (1) by the day
10 care center.

11 SECTION 3. 48.657 (2g) of the statutes is amended to read:

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1 48.657 (2g) If the report under sub. (1) indicates that the day care center is in
2 violation of a statute, a rule promulgated by the department under s. 48.658 (4) (a)
3 or 48.67, or a provision of licensure under s. 48.70 (1), the day care center shall post
4 with the report any notices received from the department relating to that violation.

5 **SECTION 4.** 48.658[√] of the statutes is created to read:

6 **48.658 Child safety alarms in child care vehicles. (1) DEFINITIONS.** In this
7 section:

8 (a) “Child care provider” means a day care center that is licensed under s. 48.65
9 (1)[√], a day care provider that is certified under s. 48.651[√], or a day care program that
10 is established or contracted for under s. 120.13 (14).[√]

11 (b) “Child care vehicle” means a vehicle that has a seating capacity of 6 or more
12 passengers in addition to the driver, that is owned or leased by a child care provider
13 or a contractor of a child care provider, and that is used to transport children to and
14 from the child care provider.

15 (c) “Child safety alarm” means an alarm system that prompts the driver of a
16 child care vehicle to inspect the child care vehicle for children before exiting the child
17 care vehicle.

18 **(2) CHILD SAFETY ALARMS REQUIRED.** Before a child care vehicle is placed in
19 service, the child care provider or contractor of a child care provider that is the owner
20 or lessee of the child care vehicle shall have a child safety alarm that is approved by
21 the department under sub. (4) (b)[√] installed in the child care vehicle. A person who
22 is required under this subsection to have an approved child safety alarm installed
23 in a child care vehicle shall ensure that the child safety alarm is properly maintained
24 and in good working order each time the child care vehicle is used for transporting
25 children to or from a child care provider.

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SECTION 4

1 (3) VIOLATION. (a) No person may knowingly transport a child, and no child care
 2 provider or contractor of a child care provider that is the owner or lessee of a child
 3 care vehicle may knowingly permit a child to be transported, to or from a child care
 4 provider in a child care vehicle in which a child safety alarm has not been installed,
 5 is not properly maintained, or is not in good working order.

6 (b) In addition to the sanctions and penalties specified in s. 48.715, any person
 7 who violates par. (a) may be fined not more than \$1,000 or imprisoned for not more
 8 than one year in the county jail or both. *Child and Family Services*

9 (4) RULES; APPROVAL OF CHILD SAFETY ALARMS. (a) The department of ~~health and~~
 10 ~~family services~~ shall promulgate rules to implement this section with respect to day
 11 ~~care centers licensed under s. 48.65 (1) and day care programs established or~~
 12 ~~contracted for under s. 120.13 (14). The department of workforce development shall~~
 13 ~~promulgate rules to implement this section with respect to day care providers~~
 14 ~~certified under s. 48.65.~~ *the*

15 (b) The department of ~~health and family services~~ shall maintain a list of child
 16 safety alarms that are approved by ~~that~~ department for use in a child care vehicle.
 17 Notwithstanding s. 227.10 (1), that list need not be promulgated as rules under ch.
 18 227.

19 SECTION 5. 48.715 (2) (c) of the statutes is amended to read:
 20 48.715 (2) (c) That a licensee stop violating any provision of licensure under s.
 21 48.70 (1) or ~~rules~~ rule promulgated by the department under s. 48.658 (4) (a) or 48.67.

22 SECTION 6. 48.715 (2) (d) of the statutes is amended to read:
 23 48.715 (2) (d) That a licensee submit a plan of correction for violation of any
 24 provision of licensure under s. 48.70 (1) or rule promulgated by the department under
 25 s. 48.658 (4) (a) or 48.67.

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1 **SECTION 7.** 48.715 (2) (f) of the statutes is amended to read:

2 48.715 (2) (f) That a licensee close the intake of any new children until all
3 violations of the provisions of licensure under s. 48.70 (1) and the rules promulgated
4 by the department under s. 48.658 (4) (a) or 48.67 are corrected.

5 **SECTION 8.** 48.715 (3) (intro.) of the statutes is amended to read:

6 48.715 (3) (intro.) If the department provides written notice of the grounds for
7 a penalty, an explanation of the types of penalties that may be imposed under this
8 subsection, and an explanation of the process for appealing a penalty imposed under
9 this subsection, the department may impose any of the following penalties against
10 a licensee or any other person who violates a provision of licensure under s. 48.70 (1)
11 or rule promulgated by the department under s. 48.658 (4) (a) or 48.67 or who fails
12 to comply with an order issued under sub. (2) by the time specified in the order:

13 **SECTION 9.** 48.715 (4) (a) of the statutes is amended to read:

14 48.715 (4) (a) The department has imposed a penalty on the licensee under sub.
15 (3) and the licensee or a person under the supervision of the licensee either continues
16 to violate or resumes violation of a rule promulgated under s. 48.658 (4) (a) or 48.67,
17 a provision of licensure under s. 48.70 (1), or an order under this section forming any
18 part of the basis for the penalty.

19 **SECTION 10.** 48.715 (4) (b) of the statutes is amended to read:

20 48.715 (4) (b) The licensee or a person under the supervision of the licensee has
21 committed a substantial violation, as determined by the department, of a rule
22 promulgated under s. 48.658 (4) (a) or 48.67, a provision of licensure under s. 48.70
23 (1), or an order under this section.

24 **SECTION 11.** 48.715 (4) (d) of the statutes is amended to read:

SENATE BILL 344

SECTION 11

1 48.715 (4) (d) The licensee or a person under the supervision of the licensee has
 2 violated, as determined by the department, a rule promulgated under s. 48.658 (4)
 3 (a) or 48.67, a provision of licensure under s. 48.70 (1), or an order under this section
 4 that is the same as or similar to a rule promulgated under s. 48.658 (4) (a) or 48.67,
 5 a provision of licensure under s. 48.70 (1), or an order under this section that the
 6 licensee or a person under the supervision of the licensee has violated previously.

7 **AR 1A** SECTION 12. Nonstatutory provisions. *Children and families*

8 **AR 7C** (1) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; RULES.

9 (a) *Proposed rules.* The department of ~~health and family services and the~~
 10 ~~department of workforce development~~ shall submit in proposed form the rules
 11 required under section 48.658 (4) (a) of the statutes, as created by this act, to the
 12 legislative council staff under section 227.15 (1) of the statutes no later than the first
 13 day of the 6th month beginning after the effective date of this ^{paragraph} ~~subsection~~.

14 ~~Notwithstanding section 227.137 (2) of the statutes, the secretary of administration~~
 15 ~~may not require the department of workforce development to prepare an economic~~
 16 ~~impact report for the rules required under section 48.658 (4) (a) of the statutes, as~~
 17 ~~created by this act.~~ *children and families*

18 (b) *Emergency rules.* Using the procedure under section 227.24 of the statutes,
 19 the department of ~~health and family services and the department of workforce~~
 20 ~~development~~ may promulgate as emergency rules the rules required under section
 21 48.658 (4) (a) of the statutes, as created by this act, for the period before the effective
 22 date of the rules submitted under paragraph (a). Notwithstanding section 227.24 (1)
 23 (c) and (2) of the statutes, emergency rules promulgated under this paragraph
 24 remain in effect until the date on which the rules submitted under paragraph (a) take
 25 effect. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department

SENATE BILL 344

children and families 14

1 of health and family services and the department of workforce development are not
2 required to provide evidence that promulgating a rule under this paragraph as an
3 emergency rule is necessary for the preservation of public peace, health, safety, or
4 welfare and is not required to provide a finding of emergency for a rule promulgated
5 under this paragraph.

AR 1B

6 (2) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; GRACE PERIOD.
7 Notwithstanding section 48.658 (2) of the statutes, as created by this act, a child care
8 provider, as defined in section 48.658 (1) (a) of the statutes, as created by this act, or
9 a contractor of a child care provider that is the owner or lessee of a child care vehicle,
10 as defined in section 48.658 (1) (b) of the statutes, as created by this act, that is used
11 to transport children to and from a child care provider, as defined in section 48.658

12 (1) (a) of the statutes, as created by this act, on the day before the effective date of
13 this subsection shall have a child safety alarm, as defined in section 48.658 (1) (c) of
14 the statutes, as created by this act, that is approved by the department of ^{children} health and
15 ^{families} family services under section 48.658 (4) (b) of the statutes, as created by this act,
16 installed in the child care vehicle by a qualified technician or mechanic by the first
17 day of the 3rd month beginning after the effective date of this subsection.

18 SECTION 13. Initial applicability.

19 (1) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES. Except as provided in
20 subsection (2), this act first applies to a child care vehicle, as defined in section 48.658
21 (1) (b) of the statutes, as created by this act, that is used to transport children to or
22 from a child care provider, as defined in section 48.658 (1) (a) of the statutes, as
23 created by this act, on the effective date of this subsection.

24 (2) CHILD SAFETY ALARMS IN CHILD CARE VEHICLES; GRACE PERIOD. This act first
25 applies to a child care vehicle, as defined in section 48.658 (1) (b) of the statutes, as

SENATE BILL 344

SECTION 13

AR 1A → AR 1B

1 created by this act, described in SECTION 12 (2) of this act that is used to transport
2 children to or from a child care provider, as defined in section 48.658 (1) (a) of the
3 statutes, as created by this act, on the first day of the 3rd month beginning after the
4 effective date of this subsection.

5 **SECTION 14. Effective dates.** This act takes effect on the first day of the 12th
6 month beginning after publication, except as follows:

AR 1A → AR 1C

7 (1) RULES. SECTION 12 (1) of this act takes effect on the day after publication.

8 (END)

INSERT ANALYSIS

Under current Department of Children and Families (DCF) administrative rules, a child may not be left unattended in a vehicle that transports children to or from a day care center that is licensed by DCF, a day care provider that is certified according to standards adopted by DCF, or a day care program that is established or contracted for by a school board (child care provider).

Under this bill, a child care provider or contractor of a child care provider that owns or leases a child care vehicle must install a child safety alarm, which has been approved by DCF, before the child care vehicle is placed in service. Under the bill, "child care vehicle" means "a vehicle that has a seating capacity of six or more passengers in addition to the driver, that is owned or leased by a child care provider or a contractor of a child care provider, and that is used to transport children to and from the child care provider." Under the bill, "child safety alarm" means "an alarm system that prompts the driver of a child care vehicle to inspect the child care vehicle for children before exiting the child care vehicle." The bill, however, grants to a child care provider or contractor of a child care provider that owns or leases a child care vehicle that is in use before the effective date of the bill a grace period of three months after the effective date of the bill to install a child safety alarm. Under the bill, any person who knowingly transports a child to or from a child care provider in a child care vehicle in which a child safety alarm has not been installed, is not properly maintained, or is not in good working order may be fined not more than \$1,000 or imprisoned for not more than one year in the county jail or both. The same penalty applies to any child care provider or contractor of a child care provider that knowingly permits a child to be transported in a child care vehicle it owns or leases and in which a child safety alarm has not been installed, is not properly maintained, or is not in good working order.

Basford, Sarah

From: de Felice, David Patrick
Sent: Monday, March 23, 2009 12:35 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0986/1 Topic: Day care van child safety alarms

Please Jacket LRB 09-0986/1 for the SENATE.